



March 31, 2025

Hon. Ona T. Wang
United States Magistrate Judge
Southern District of New York

Re: *The New York Times Company v. Microsoft Corporation, et al.*, 1:23-cv11195; *Daily News, LP, et al. v. Microsoft Corporation, et al.*, 1:24-cv-3285

Dear Judge Wang:

OpenAI submits this letter in response to the letter filed by The New York Times and Daily News Plaintiffs at ECF 483.¹ As Plaintiffs recounted, the Parties have been following the Court's directive to confer "regarding the privacy and technological considerations implicated in Plaintiffs' request" regarding user data retention. ECF 441. During the Parties' conferrals, OpenAI told Plaintiffs that it was actively investigating whether it possessed the retention statistics Plaintiffs sought and that, if it did, OpenAI expected to provide that information to Plaintiffs. It is thus unclear why Plaintiffs chose to burden the Court with this matter. In any event, and as explained below, OpenAI has already provided Plaintiffs with the information they requested, where such information is available.

OpenAI has investigated and confirmed, based on its reasonable investigation, what data exists in connection with Plaintiffs' demands and has relayed that information to Plaintiffs in writing. Specifically, OpenAI has provided Plaintiffs with context for the data Plaintiffs have requested, including details regarding the tens of billions of ChatGPT Free, Pro, and Plus user conversations that have been retained. OpenAI informed Plaintiffs of the estimated fraction of ChatGPT Free, Pro, and Plus conversations that have not been retained, in light of OpenAI's policies and pursuant to individual user's requests, since December 27, 2023, along with a chart showing the timeline of conversations not retained over time. OpenAI has also confirmed for Plaintiffs that the ChatGPT Free, Pro, and Plus conversation data that has not been retained is not retrievable. Finally, OpenAI informed Plaintiffs that it does not track, and thus does not have available, the number of API Platform completions or ChatGPT Enterprise conversations that have not been retained, and that such data is not retrievable either.

OpenAI looks forward to continuing to work with Plaintiffs to find a path forward that ensures user privacy interests are protected, while permitting Plaintiffs access to the tens of billions of

¹ Docket numbers refer to the docket in *The New York Times Company v. Microsoft Corporation, et al.*, 1:23-cv11195.

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ChatGPT conversations that are available for sampling and analysis. As there is no outstanding dispute for the Court to adjudicate with respect to Plaintiffs' motion at ECF 483, OpenAI requests that the Court deny the motion as moot.

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LLP

/s/ Christopher S. Sun *

Christopher S. Sun

/s/ Elana Nightingale Dawson

Elana Nightingale Dawson

/s/ Joseph C. Gratz *

Joseph C. Gratz

* All parties whose electronic signatures are included herein have consented to the filing of this document.